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**BEFORE THE FEDERAL ELECTION COMMISSION**

2010 APR 26 P 3:20

In the Matter of )  
 )  
MUR 6258 ) CASE CLOSURE UNDER THE  
LIBERATORE FOR CONGRESS ) ENFORCEMENT PRIORITY  
COMMITTEE AND LOUIS G. ) SYSTEM  
BAGLIETTO, JR., AS TREASURER )  
PHILIP LIBERATORE )

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6258 as a low-rated matter.

In this matter, the complaint, filed by K. Wilson, alleges that the Liberatore for Congress Committee and Louis G. Baglietto, Jr., in his official capacity as treasurer (collectively "the Committee"), failed to timely file a Form 1 Statement of Organization. According to the complaint, the candidate filed a Form 2 Statement of Candidacy on December 10, 2009, and therefore, was required to file a Form 1 within 10 days from that date.<sup>2</sup> 11 C.F.R. § 102.1 (principal campaign committee shall file a Statement of Organization no later than 10 days after designation). The complaint asserts that the Form 1 was not filed until January 15, 2010.

<sup>1</sup> Philip Liberatore is a candidate in California's 42nd Congressional District for 2010.

<sup>2</sup> The Form 2 designated Liberatore for Congress Committee as the candidate's principal campaign committee.

**CELA**

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1           The Committee acknowledges that it failed to file the Form 1 Statement of  
2   Organization within 10 days of the Form 2 Statement of Candidacy filing, but states that its  
3   “error” was a “*de minimis* violation.” The Committee asserts, however, that the candidate  
4   “did not exceed the \$5,000 threshold” for candidate status until January 20, 2010, so the  
5   Committee was not required to file the Form 2 until 15 days later, or February 4, 2010. *See*  
6   11 C.F.R. §§ 100.3, 101.1. The Committee notes that the Form 2 was filed “prematurely”  
7   due to the “over eagerness”[sic] of the candidate to comply with the law. The treasurer,  
8   who was retained four weeks after that filing, then filed the Form 1 “as soon as  
9   practicable[sic]”.

10           As noted by the candidate, he may have been technically required to file the Form 1  
11   within ten days of filing his Form 2 (Statement of Candidacy). However, in light of the fact  
12   that the candidate did not exceed the \$5,000 campaign activity threshold until January 20,  
13   2010<sup>3</sup>, and in furtherance of the Commission’s priorities and resources, relative to other  
14   matters pending on the Enforcement docket, the Office of General Counsel believes that the  
15   Commission should exercise its prosecutorial discretion and dismiss the matter. *See*  
16   *Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>3</sup> On its 2010 April Quarterly Report, the Committee reported receiving a personal loan from the candidate in excess of \$5,000 on January 20, 2010.

**RECOMMENDATIONS**

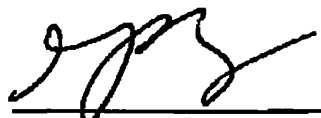
The Office of General Counsel recommends that the Commission dismiss

MUR 6258, close the file, and approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

4/24/10  
Date

BY:



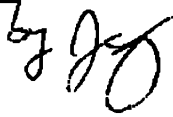
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